

REMARKS/ARGUMENTS

In the Final Office action mailed February 22, 2010, claims 1 – 21 were rejected. In response, Applicants propose amending claims 2 – 11, 14 – 17, and 20, canceling claims 1, 12, 13, and 21, and adding new claims 22 – 25. Applicants hereby request reconsideration of the application in view of the amended claims, the added claims, and the below-provided remarks.

For reference, claims 2 – 11 have been amended to correspond to new claim 22 and claims 14 – 17 and 20 have been amended to correspond to new claim 23.

Claim Rejections under 35 U.S.C. 103

Claims 1 – 21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Pat. No. 7,233,316). However, Applicants respectfully submit that the pending claims are patentable over Smith for the reasons provided below.

Claim 22

New claim 22 is supported in Applicants' specification at, for example, paragraphs [0015] – [0018] and Figures 3 and 4. Claim 22 recites:

“A hand-held device that wirelessly communicates with a base device, the hand-held device comprising:
a memory for storing at least one of picture data and music data;
a motion detection subsystem configured to detect a motion of the hand-held device, the motion of the hand-held device being made by a user holding the device;
a radio frequency (RF) communications subsystem for wirelessly communicating with the base device; and
at least one processor operative to:
interpret the motion of the hand-held device as a command that involves wirelessly transmitting at least one of picture data and music data to the base device; and
execute the command to wirelessly transmit at least one of picture data and music data from the hand-held device to the base device in response to interpreting the motion of the hand-held device as the command that involves wirelessly transmitting at least one of picture data and music data to the base device.” (emphasis added)

As recited in claim 22, a hand-held device is configured such that the wireless transmission of picture data or music data from the hand-held device to another device can be triggered by movement of the hand-held device itself. For example, if a user of the hand-held devices makes a throwing motion or a pouring motion with the hand-held device, certain picture data or music data will be transmitted to a target device.

Applicants assert that Smith does not teach or suggest such a hand-held device. Smith teaches that the motion of a hand-held device is interpreted to identify a command. The identified command is related to interacting with a user interface of a computer, e.g., a user interface for a television. Figs. 4A – 7B depict various screen shots of a user interface and Fig. 3 illustrates various gestures that are translated to commands for interacting with the user interface. However, Smith does not teach a hand-held device that is configured such that a motion of the hand-held device triggers the wireless transmission of picture data or music data from the hand-held device to another device. In fact, Smith makes no mention of a need or desire to transfer picture data or music data from the controller (see Fig. 2, 200) to the computer (see Fig. 1, 120).

Because Smith does not teach every limitation of claim 22, Applicants assert that claim 22 is patentable over Smith.

Independent Claim 23

Independent claim 23 is a method claim that includes similar limitations to claim 22. Although the language of claim 23 differs from the language of claim 22, and the scope of these claims should be interpreted independently of each other, Applicants respectfully assert that the remarks provided above in regard to claim 22 also apply to claim 23.

New claims 24 and 25 are dependent on claim 23. Support for new claims 24 and 25 is supported in Applicants' specification at, for example, paragraphs [0015] – [0018] and Figures 3 and 4.

Dependent Claims

Claims 2 – 11 are dependent on claim 22 and claims 14 – 20 are dependent on claim 23. Applicants respectfully assert that claims 2 – 11 and 14 – 20 are allowable at

least based on allowable base claims. Additionally, each of claims 2 – 11 and 14 – 20 may be allowable for further reasons.

CONCLUSION

Generally, in this Amendment and Response, Applicants have not raised all possible grounds for (a) traversing the rejections of the Action or (b) patentably distinguishing any new claims (i.e., over the Cited References or otherwise). Applicants however, reserve the right to explicate and expand on any ground already raised and/or to raise other grounds for traversing and/or for distinguishing, including, without limitation, by explaining and/or distinguishing the subject matter of the Application and/or any cited reference at a later time (e.g., in the event that this Application does not proceed to issue with the claims as herein amended, or in the context of a continuing application).

Applicants submit that nothing herein is, or should be deemed to be, a disclaimer of any rights, acquiescence in any rejection, or a waiver of any arguments that might have been raised but were not raised herein, or otherwise in the prosecution of this Application, whether as to the original claims or as to any of the new claims, or otherwise. Without limiting the generality of the foregoing, Applicants reserve the right to reintroduce one or more of the original claims in original form or otherwise so as to claim the subject matter of those claims, both/either at a later time in prosecuting this Application or in the context of a continuing application.

Applicants respectfully request reconsideration of the claims in view of the remarks made herein. A notice of allowance is earnestly solicited.

At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account **50-4019** pursuant to 37 C.F.R. 1.25. Additionally, please charge any fees to Deposit Account **50-4019** under 37 C.F.R. 1.16, 1.17, 1.19, 1.20 and 1.21.

Respectfully submitted,

/mark a. wilson/

Date: March 31, 2010

Mark A. Wilson

Reg. No. 43,994

Wilson & Ham

1811 Santa Rita Road, Suite 130

Pleasanton, California 94566

Phone: (925) 249-1300

Fax: (925) 249-0111